

Megatrends For Lawyers and Clients

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By John Naisbitt

THERE are cities, companies and institutions in this country that are like dinosaurs waiting for the weather to change. The weather is not going to change. The very ground is shifting beneath us. What is called for is nothing less than all of us—including lawyers—to reconceptualize our roles in a new society.

Without fully appreciating the larger shifts that restructure our society, we act on assumptions that are out of date. If we are not in touch with the present, we are doomed to fail.

Industry to information

The largest and most significant shift has been the transformation of America over the past 30 years from an industrial to an information-based society. While this is most noticeable in the dramatic decline of manufacturing industries and the meteoric rise of high-tech information companies, scarcely any segment of our world will escape the impact of this transition. Only 13 percent of the work

force is employed in manufacturing while more than 60 percent either produces or processes information.

Even well-established and respected professions are experiencing the effects of this change. For the legal profession the restructuring of America represents both an opportunity and a challenge.

As Harvard sociologist Daniel Bell described it, we have gone from an agricultural period, which pitted people against nature, through an industrial era, which set people against fabricated nature. Today we are in an information society in which people interact with people, and they are doing so on a more intense, heightened scale than ever before. The number of personal and business transactions has increased geometrically, encompassing a broad range of activities on paper and over wires, including phone calls, letters, messages, bills, checks, contracts and agreements. Because the medium we trade in is information—words, ideas, communications—we have become a more litigious society as some transactions undoubtedly go sour or are thrown into ques-

tion. More than anything else, it is this change in our economic base that has increased litigation in this country.

For the most part, the legal profession will benefit from this increased litigious activity. In our society we turn to the legal profession to deal with our disputes and quarrels, and as the number of transactions between people increases, our need for the legal profession increases.

Great opportunities

There indeed has been an explosion in the law, and despite what the doom-sayers predict for lawyers, the opportunities for the profession are great.

In recent years legal services has surpassed apparel as New York City's leading export. The growing number of lawyers and law students concerns some. A few law schools even are considering cutting back on the number of entrants. But the "glut" of lawyers can be absorbed by (1) considering an education in law to be a useful adjunct to another career, such as business, real estate, accounting, teaching or even medicine; or (2) reconceptualizing the business of law. Fortunately, for the first time we have an economy based on a key resource that is not only renewable but self-generating: information and knowledge. The opportunities for lawyers are great. Transition periods between economies are the times when entrepreneurship booms, and we are now in such an age.

Computers and high technology have infiltrated all segments of the work force, including law firms and courts. Considering the backlog of cases that our courts are experiencing, high technology should be a welcome relief. The paper work of court clerks that used to take months now can be done in a few weeks. (Of course, too few courts have been able to afford the conversion from paper files to computer.) Research has been aided greatly by computer data bases. Videotaping of depositions, drunk driving police tests and even confessions is on the increase. Video coverage of trials is having widespread effect everywhere, as witnessed by the recent rape trial in New Bedford, Mass., the complete ramifications of which are not yet known.

We are only now beginning to sense the complications for a society inundated with computerized electronic wizardry. How do we protect computer data? What constitutes stealing from a machine? (Experts estimate that computer crimes net an average of \$500,000,

totaling upwards of \$5 billion annually.) If video is used for *most* confessions, what happens when it is not used? Should tapes be edited? Sayed? For how long? The questions are endless and we don't even know how to ask most of them.

Computers and Latin America

Ten years ago only a few million Americans had access to a computer, and estimates now are that the number soon may be as high as 50 million. Use of integrated computers and communication systems will become increasingly critical to law firms. The computer is a tool that manages complexity, and just as surely as highways only encourage more cars, a tool that handles complexity invites more complexity into the society.

Sophisticated technology has revolutionized communications worldwide, collapsing the information float and bringing us instantaneously shared information. Hand in hand with this is our shift away from a national toward a global economy. Foreign ownership of

American property and business continues to increase. Production sharing, as social and business critic Peter Drucker said, will be the prevailing form of worldwide economic integration. Our proximity to Latin America has meant an increase in our Hispanic population. For lawyers, these changes mean that the need for attorneys with an understanding of international law will rise, and the demand for bilingual lawyers and services will become acute. To be truly successful, we will have to be trilingual—fluent in English, Spanish and computer. In general, it will be important for each of us, including lawyers, to feel we are part of a larger global village.

More do-it-yourselfers

The trend toward self-help and away from institutional help is a pervasive one. We are reclaiming our traditional sense of self-reliance, after four decades of looking to institutions for help. Since the 1930s Depression, we have given our children to the schools, our health to the medical establishment, our welfare to



the federal government and our careers to corporations. Now we are taking them back.

Just as we have begun to look after our own health with diet, nutrition, exercise and home test kits for blood pressure or pregnancy, so too will we be more inclined to do our own simple legal procedures—wills, name changes, adoptions and even divorces and bankruptcies—often assisted by a clerk or self-help manual. This trend is reinforced when seen as a way to cut costs as well. But as other transactions between people (and their machines) become more complex, the demand for attorneys to assist in sorting out the implications of these complicated dealings will increase. Therefore, this trend should not be viewed as a threat but as a natural progression within the environment and even as a release from rather mundane procedures.

Similarly, we are moving from a representative democracy to a participatory democracy. The ethic of participation is spreading bottom-up across America, radically altering the way we think people should be governed. Citizens, workers and consumers are demanding and getting a greater voice in government, business and the marketplace. The guiding principle of this participatory democracy is that people must be part of the process of arriving at decisions that affect their lives. As we decentralize—another megatrend—the power and resources for dealing with crises is shifting to states, cities and neighborhoods and away from Washington, D.C. For example, an unprecedented growth of the use of referenda and initiatives began in the 1970s. Twice as many voter initiatives have been introduced in the last five years across America than during the previous five.

In the area of law and justice, we operated for decades within a framework, or paradigm, of rehabilitation. But during the 1970s that framework slowly changed, swelling from the grassroots up, from rehabilitation to punishment. The prevailing paradigm of punishment influences millions of decisions made by policemen, judges and juvenile authorities. The new paradigm is evidenced by the formidable popularity of the death sentence, the use of mandatory sentencing, the treatment of more young defendants as adults and the fact that more people are in prison than ever before. Any events that are consonant with the paradigm will be with us a long time and are not a mere "blip on the screen." Today's prevailing

paradigm is punishment.

Hierarchies to networks

The trend toward participatory democracy is far-reaching. Combined with computer technology, the shape of business management changes from one of hierarchies to networks. The computer can now manage employee statistics and records, freeing management to work more personally and individually with employees. In an information economy, rigid hierarchical structures slow down the flow of information, which must be shared horizontally to be effective. The diagonal, three-dimensional shape of networking involves people on every possible level, which is much more in tune with an information economy. Information is a great equalizer.

By the late 1980s, 80 percent of total management will be under 45 years of age. This generation, the "baby boomers," grew up networking. Grassroot, collaborative efforts of this generation

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brought us the anti-war movement, the women's movement and the environmental movement. This is the way they organized and communicated as young adults and they are carrying this style into the business community. Younger, well-educated, rights-conscious workers of this baby boom generation tend to favor participatory management.

This same generation also constitutes a large proportion of the legal profession. (A survey by the ABA Journal published in the February 1984 issue showed that only 15 percent of those responding were over 50 years old.) Chances are, this preferred method of organization will have an effect on the pyramid-like management structures within the law firms.

A change in the profile

In the past the legal profession attracted people, mostly men, with com-

mon backgrounds and aspirations. As more women and minorities enter law, the profile of the profession will change. As it incorporates people with diverse backgrounds and talents and a wider range of specialties and objectives, new perspectives and concerns will undoubtedly surface. These may include questions about affirmative action, multiple options for accessible legal services and "comparable worth" in the workplace.

It appears the 1980s will be the decade in which we address the issue of comparable worth. Equal pay for the work of comparable value asks the question, why is a carpenter paid more than a nurse? The answer, of course, is that until recently carpenters always were men, nurses always were women, and men always were in the position of decision making. And, in the past women were rarely heads of households. As this changes, and as the roles of men and women become less defined, we will rethink the value and comparable worth of many jobs.

In reconceptualizing the legal profession, we have to take into consideration all these changes affecting our society: we have to look at the bigger picture. In a similar fashion the medical profession is re-examining its place in the world. Indications are that people are now more interested in how to prevent diseases than simply how to cure them. Overall, the effect may be profound. Will the emphasis of physicians shift from treatment to prevention?

The legal profession also will have to reconceptualize what business it is in. How do changes in our society in the "larger context" affect our everyday decisions? Will the emphasis shift from lawsuit to mediation?

The future looks bright

The number of lawyers entering the profession will decrease as we assimilate the last of the baby boomers into the work force. The options available during times of rapid change are great. The future of the legal profession looks bright, provided lawyers and clients pay attention to these changes. The worst thing any of us can do right now is to operate "business as usual."

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